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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,607	03/01/2004	Jonathan S. Stinson	81582A	9582
7590 11/21/2005 KRIEGSMAN & KRIEGSMAN 665 Franklin Street Framingham, MA 01702			EXAMINER COZART, JERMIE E	
			ART UNIT 3726	PAPER NUMBER

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/790,607	Applicant(s) STINSON, JONATHAN S.	
	Examiner Jermie Cozart	Art Unit 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-44 is/are pending in the application.
4a) Of the above claim(s) 22,27,32,33 and 35-44 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-26,28,30,31 and 34 is/are allowed.
- 6) ☒ Claim(s) 23 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solovay (5,843,161) in view of Thompson et al. (5,957,974).

Solovay discloses compressing a self-expandable stent (12) over an inner catheter (30). Solovay also discloses that while the self-expandable stent (12) is in a compressed state, a braided tube (14) is positioned around the inner catheter (30) and self-expandable stent (12), wherein the braided tube is dimensioned to maintain the self-expandable stent in the compressed state.

Solovay, however, does not disclose positioning an outer catheter tube around the braided tube, the outer tube being adapted for axial movement relative to the inner catheter.

Thompson discloses an inner catheter tube (26) and an outer catheter tube (20) positioned around the braided tube (40), wherein the outer tube (20) is adapted for axial movement relative to the inner catheter (26). This catheter arrangement allows to the stent graft to be properly aligned as it progressively radially self-expands toward an intimate contact with tissue at the treatment site. *See column 6, line 34 – column 7, line 2, and figure 1 for further clarification.*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to substitute the catheter deployment system of Solovay with the inner and outer catheter tubes, in light of the teachings of Thompson, in order to properly align the stent as it progressively radially self-expands toward an intimate contact with tissue at the treatment site.

Allowable Subject Matter

3. Claims 24-26, 28, 30, 31, and 34 are allowed.

Response to Arguments

4. Applicant's arguments filed 9/14/05 have been fully considered but they are not persuasive.

Applicant argues that Solovay does not disclose a radially expandable sleeve/tube that maintains the stent in a compressed state.

In response, the Examiner maintains that the tube/sleeve of Solovay does maintain the stent in a compressed state until the stent is expanded. Claim 23 does not specify the amount of time required for the sleeve/tube to maintain the stent in a compressed state, therefore as long as the stent is compressed the sleeve/tube will remain in a compressed state around the stent as well.

Applicant argues that Thompson fails to teach or suggest a braided tube dimensioned to maintain a self-expandable stent in a compressed state.

In response, the Examiner maintains that Thompson was not cited to address this feature, but Thompson addresses this feature as previously cited above.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 571-272-4528. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Jimenez can be reached on 571-272-4530. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JC

November 16, 2005


MARC JIMENEZ
PRIMARY EXAMINER
11/17/05